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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,937	07/14/2003	Jeffery Scott Hawkins	DDC 0547 PUS	6646
22045	7590	06/25/2004	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			HOANG, JOHNNY H	
		ART UNIT	PAPER NUMBER	
		3747		

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/618,937	HAWKINS, JEFFERY SCOTT
Examiner	Art Unit	
	Johnny H. Hoang	3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 July 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 14 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 10/24/2003.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Brocard et al (US 6,363,353 B1).

Regarding claim 1, the reference of Brocard et al discloses a method for controlling operating of a vehicle engine following subject matters: an electronic control module (120) (col. 4, lines 41-45) and a throttle control (master lever) by limiting response to throttle actuation determined to be undesirable (col. 1, lines 31-33; and col. 5, lines 22-27), comprising:

sensing when said engine is in overspeed operation (col. 2, lines 24-54; and col. 3, lines 33-36);

responding to said sensing said overspeed operation by inhibiting response to throttle control actuation (above discussions); and

enabling engine braking of said vehicle when said overspeed operation is maintained beyond said responding (above discussions and col. 4, lines 10-14).

Regarding claim 2, the reference of Brocard et al further discloses wherein said enabling comprises commanding a reduced engine speed (col. 8, line 49 through col. 9, line 23).

Regarding claim 3, the reference of Brocard et al further discloses wherein said commanding is a fuel adjustment command (above discussions).

Regarding claim 4, the reference of Brocard et al further discloses wherein said commanding comprises commanding a powertrain response (above discussions).

Regarding claim 5, the reference of Brocard et al further discloses wherein said responding comprises automatically switching a digital input to said electronic control module (see abstract).

Regarding claim 6, the reference of Brocard et al discloses a method for controlling operating of a vehicle engine following subject matters: a compression-ignition internal combustion engine that switches engine operation out of a speed range defined between first and second thresholds (col. 2, lines 24-53), the control comprising:

a sensor detecting when said engine operation passes an overspeed threshold during actuation of the throttle (see discussions of claim 1; and col. 5, lines 21-65);

a controller input responsive to said detecting for processing a predetermined response of inhibiting response to throttle actuation (above rejections); and

a controller command enabling engine braking when said overspeed condition is maintained after said detecting (above rejections).

Regarding claim 7, the reference of Brocard et al further discloses wherein said control comprises a discrete component circuit generating said input to an electronic control module (see Fig. 1-Fig. 3b).

Regarding claim 8, the reference of Brocard et al further discloses wherein said control comprises a software program in an electronic control module (col. 1, lines 26-28).

Regarding claim 9, as above discussions, the reference of Brocard et al further discloses a computer readable storage having data stored therein representing instructions executable by a computer to control a compression ignition internal combustion engine (col. 1, lines 46-06, col. 6, line 22 through col. 7, line 10; and claim 5 of the invention).

Regarding claims 10-11, as above rejections.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The copies of U.S Patent are provided.

Cornell et al (US 6,609,495 B1), Cornell et al (6,560,963 B2), Dykstra et al (US 5,353,762), and Strong et al (US 4,905,154).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (703) 308-2782. The examiner can normally be reached on Monday - Thursday (7:00Am-5: 30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH
June 22, 2004

Johnny H. Hoang
Examiner
Art Unit 3747


Henry C. Yuen
Supervisory Patent Examiner
Group 3700